

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 10, 2001

D036362 People v. Proano

The judgment of conviction is affirmed. The matter is remanded to the trial court for resentencing.
Haller, J.; We Concur: Nares, Acting P.J., McDonald, J.

D037361 People v. Gonzales

Judgment affirmed. Nares, J.; We Concur: Kremer, P.J., McDonald, J.

D038934 In re Vong on Habeas Corpus

The petition is denied as duplicative.

D037777 People v. Anaya

The judgment is affirmed. The trial court shall prepare and forward to the Department of Corrections an amended abstract of judgment specifying that each of the two robberies are second degree rather than first degree. Nares, J.; We Concur: Kremer, P.J., McIntyre, J.

D038572 People v. Williams

D038600 People v. Williams

Appellant's motion to consolidate the above-entitled appeals is granted.

D035941 People v. Lee

The judgment is affirmed. Benke, Acting P.J.; I Concur: McDonald, J.; I concur in the result. Haller, J.

D034429 People v. Basuta

The judgment is reversed. CERTIFIED FOR PARTIAL PUBLICATION. Benke, J.;
We Concur: Kremer, P.J., Haller, J.

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices
Judith Haller and James McIntyre

Clerk: D. E. Moore

D036109 People v. Barcheers

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant. Anthony DaSilva, Deputy Attorney General argued for respondent, and submitted a letter to the court. Mr. Ford replied. Cause submitted.

D034937 People v. Martinez

Cause called on merits. Elizabeth A. Barranco, Esq. argued for appellant. Anthony DaSilva, Deputy Attorney General argued for respondent. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 10, 2001 (Continued)

D035933 People v. Mason et al.

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant, Mason. Stephen Gilbert, Esq. argued for appellant, Wilson. Gary Brozio, Deputy Attorney General argued for respondent. Mr. Wallingford replied. Mr. Gilbert replied. Cause submitted.

D036631 Rodriguez v. Care With Dignity Healthcare, Inc.

Cause called on merits. Charles Moore, Esq. argued for appellant. Alison Vitacolonna, Esq. argued for respondent. Mr. Moore replied. Cause submitted.

D036632 Huber et al. v. Frank's Welding Company et al.

Cause called on merits. Michael D. Padilla, Esq. argued for appellant. Greg Stephan, Esq. argued for respondent, Frank's Welding Company. Mr. Padilla replied. Cause submitted.

Court recessed at 11:15 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre
Clerk: D. E. Moore

D036923 Kraffert v. Shea Homes, et al.

Cause called on merits. Michael W. Quade, Esq. argued for appellant and submitted a Request for Judicial Notice. Gregory Garth Brown, Esq. argued for respondent. Mr. Quade replied. Cause submitted.

Court recessed at 1:50 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre

D037059 People v. Martinez

Cause called on merits. Joanna McKin, Esq. argued for appellant. Marilyn George, Deputy Attorney General argued for respondent. Cause submitted.

D035513 People v. McCalister

Cause called on merits. Daniel J. Kessler, Esq. argued for appellant. Alana Butler, Deputy Attorney General argued for respondent. Mr. Kessler replied. Cause submitted.

D037259 In re Andre P., a Juvenile

Cause called on merits. Amanda Doerrer, Esq. argued for appellant. Charles Ragland, Deputy Attorney General argued for respondent. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 10, 2001 (Continued)

D037035 Eriksson v. GEICO

Cause called on merits. David Demanski, Esq. argued for appellant. William Peterson, Esq. argued for respondent. Mr. Demanski replied. Cause submitted.

Court recessed at 2:41 p.m. until Tuesday, December 11, 2001 at 9:00 a.m.

D038178 Kinder et al. v. City of San Diego

The appeal is dismissed.

D038697 Lazariz et al. v. Scripps Green Hospital

The appeal is dismissed.

D039200 Asmus et al. v. Manuel Espinoza

The petition is denied.

D039056 In re Lopez on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 11, 2001

D038880 In re Abreu on Habeas Corpus

The petition is denied.

D039040 In re Abreu on Habeas Corpus

The petition is denied.

D038549 In re the Marriage of Pasas

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).
The appeal is dismissed.

D038319 Capital Trust, Inc., et al. v. Tri National Development Corporation, Senior Care Industries Inc.

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).
The appeal is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Alex McDonald and Terry O'Rourke
Clerk: D. E. Moore

D035470 People v. Rosales

Cause called on merits. George Schraer, Esq. argued for appellant. Laura Stillwell, Deputy Attorney General argued for respondent. Mr. Schraer replied. Cause submitted.

Court recessed at 9:20 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

D037715 People v. O'Neal

Cause called on merits. Susan P. Clemens, Esq. argued for appellant. Angela Borzachillo, Deputy Attorney General argued for respondent. Cause submitted.

D038329 Moroz v. Superior Court/Schraefel-RPI

Matter called on merits. Terry Loftus, Esq. argued for petitioner. Kent H. Foster, Esq. argued for real party in interest. Mr. Loftus replied. Matter submitted.

D038091 Carter v. Superior Court/New York Times Company et al.

Matter called on merits. Guylyn R. Cummins, Esq. argued for real party in interest. Lionel P. Hernholm, Jr., Esq. argued for petitioner. Ms. Cummins replied. Jesse Thomas Hindman, Esq. was present in oral argument, but did not argue. Matter submitted.

Court recessed at 11:05 a.m. until 1:30 p.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 11, 2001 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller
Clerk: D. E. Moore

D037386 Brignac v. Hudson et al.

Cause called on merits. Jaron Brignac argued for appellant, in pro per, telephonically. No appearance by Randal A. Pinal, Deputy Attorney General. Cause submitted.

D037586 Chavez et al. v. Mendoza et al.

Cause called on merits. David R. Clark, Esq. argued for appellant. Duane H. Sceper, Esq. argued for respondent. Mr. Clark replied. Cause submitted.

D035808 Moore, P.C. v. Orthodontic Centers of America, Inc.

Cause called on merits. Loren Scott Keehn, Esq. argued for appellant. Gibson Edward Pratt, Esq. argued for respondent. Mr. Keehn replied. Cause submitted.

D037231 Redevelopment Agency of the City of Chula Vista v. Rados Bros.

Cause called on merits. Charles A. Bird, Esq. argued for appellant. Roscoe D. Keagy, Esq. was present in oral argument for respondent, but did not argue. Charles F. Campbell, Esq. argued for respondent, Rados Bros. Mr. Bird replied. Cause submitted.

Court recessed at 3:05 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Judith Haller

D037064 Rogers v. Caballero

Cause called on merits. Kenneth Stone, Esq. argued for appellant. Giles Tempest Townsend, Esq. argued for respondent. Mr. Stone replied. Cause submitted.

Court recessed at 3:21 p.m. until Wednesday, December 12, 2001 at 9 a.m.

D037673 People v. Williams

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D036773 People v. Standingwater

The judgment is reversed. Huffman, J.; We Concur: Kremer, P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 12, 2001

D038206 Crouch et al. v. Szemenyei

Upon written request filed by cross-appellants, the cross-appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 29(b)).

D037950 People v. Langley

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D037881 People v. Robinson

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D038139 In re Nicholas P., a Juvenile

The judgment is affirmed. McConnell, J.; We Concur: Kremer, P.J., Benke, J.

**D038029 Morris Cerullo World Evangelism et al. v. Superior Court of San Diego
County/Warren**

The stay is dissolved and the petition for writ of mandate is granted as follows: The trial court is directed to vacate its order denying summary adjudication of issues as to the first and second causes of action, and to enter a new order granting the motion as to those claims, as well as the trade secret causes of action as previously ordered. The new order should also reflect that further proceedings will take place as appropriate on the remaining causes of action for intentional interference with economic relationship and for dissolution of partnership. Each part to bear its own costs on appeal. Huffman, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D034701 In re Marriage of Hodges

D036624 In re Marriage of Hodges

The petition for rehearing is denied.

D038164 Ignacio R. v. Superior Court of San Diego County/People

The petition for writ of prohibition is denied. CERTIFIED FOR PUBLICATION. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

D039049 Day v. Superior Court of San Diego County/The Salvation Army

The petition is dismissed as moot.

D038901 In re Mary D., a Juvenile

The appeal is dismissed. Kremer, P.J.; We Concur: Nares, J., O'Rourke, J.

D038074 In re Kristine W., a Juvenile

The order is affirmed to the extent it permits disclosure by Kristine's therapist of matters that would reasonably assist the juvenile court in evaluating whether further orders are necessary for Kristine's benefit, and preserves the confidentiality of the details of her therapy. CERTIFIED FOR PUBLICATION. McDonald, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 12, 2001 (Continued)

D035867 In re Marriage of Schatz

The order of October 18, 2001, submitting the above case is vacated due to an illness in the family of a staff member of the court. The matter will be resubmitted in March, 2002. Kremer, PJ

D038203 Smith v. Automotive Funding Group

The order of October 18, 2001, submitting the above case is vacated due to an illness in the family of a staff member of the court. The matter will be resubmitted in March, 2002. Kremer, PJ

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Terry O'Rourke
Clerk: D. E. Moore

D034303 People v. Rogers, Jr.

Cause called on merits. Carl Fabian, Esq. argued for appellant. Barry Carlton, Deputy Attorney General argued for respondent. Mr. Fabian replied. Cause submitted.

D036910 Donovan v. L.A. Ski & Sun Tours et al.

Cause called on merits. Jose Carlos Rojo, Esq. argued for appellant. Steven Michael Selna, Esq. argued for respondent. Mr. Rojo replied. Cause submitted.

D035974 Gilberto S., a Minor v. Bank of America

Cause called on merits. William Turley, Esq. argued for appellant. Franklin Dean Thomas, Esq. argued for respondent. Mr. Turley replied. Cause submitted.

Court recessed at 10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke
Clerk: D. E. Moore

D035486 McMeans et al. v. ScrippsHealth et al.

Cause called on merits. Sheldon A. Ostroff, Esq. argued for appellant. Deborah Giles, Esq. argued for respondent. Barry S. Landsberg, Esq. argued for amicus. Mr. Ostroff replied. Cause submitted.

D036990 Carrancedo v. Esquinca

Cause called on merits. Jeffry A. Miller, Esq. argued for appellant. No brief was filed on behalf of respondent. Cause submitted.

Court recessed at 2:30 p.m. until Thursday, December 13, 2001 at 9:00 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 12, 2001 (Continued)

D035903 Bryer et al. v. Green-Venable/Cimarron Service Corporation of Nevada

The cause is remanded for a recalculation of the damages owed to Marshall and for an award of attorney fees to Marshall and Betty as prevailing parties. In all other respects, the judgment is affirmed. Marshall and Betty are to recover their costs and attorney fees on appeal. Kremer, P.J.; We Concur: Haller, J., McIntyre, J.

D038815 In re Juan M., a Juvenile

The appeal is dismissed. Kremer, P.J.; We Concur: Nares, J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 13, 2001

D038704 In re Chelsea M., a Juvenile

The appeal is dismissed. Kremer, J.; We Concur: Nares, J., O'Rourke, J.

D038044 In re Angel C. et al., Juveniles

The judgments are affirmed. Huffman, J.; We Concur: Kremer, P.J., McDonald, J.

D035365 People v. Ponce

The judgment is affirmed. Benke, J.; We Concur: Kremer, P.J., Haller, J.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Alex McDonald and Judith McConnell

Clerk: D. E. Moore

D036621 People v. Rider

Cause called on merits. Eric S. Multhaup, Esq. argued for appellant, telephonically. Maxine Cutler,
Deputy Attorney General argued for respondent. Mr. Multhaup replied. Cause submitted.

D038185 State Farm Fire and Casualty v. Jarrel

Cause called on merits. Frederick Taylor Mason, Esq. argued for appellant, telephonically.
Marc Jeremy Feldman, Esq. argued for respondent. Mr. Mason replied. Cause submitted.

D038608 Susag et al. v. City of Lake Forest et al.

Cause called on merits. Jeffrey Stephan Benice, Esq. argued for appellant. Shelton Franklin Harrell, Esq.
argued for respondent. Mr. Benice replied. Cause submitted.

D038614 Walt Disney World Co. v. Montgomery Kone, Inc., et al.

Cause called on merits. Gary Lape, Esq. argued for appellant. Michael John Danner, Esq. argued for
respondent. Mr. Lape replied. Cause submitted.

Court recessed at 10:13 a.m. until 1:30 p.m.

D034531 People v. Davis et al.

Affirmed. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D038756 In re Pena on Habeas Corpus

The petition is denied.

D039183 Mora v. Superior Court of Imperial County/People

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 13, 2001 (Cont'd)

D035048 People v. Dutra

Submission in the above-entitled cause is vacated. A draft opinion has been prepared; complex issues require further conferencing within the panel. The cause is resubmitted this day, December 13, 2001. Benke, APJ

D039182 Mora v. Superior Court of Imperial County/People

The petition is denied.

D038833 In re Torres on Habeas Corpus

The petition is denied.

D038990 In re Bozeman on Habeas Corpus

The petition is denied.

D035050 People v. Lima et al.

The judgments are reversed as to the first degree convictions and are otherwise affirmed. The matters are remanded for further proceedings. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.

D039184 Mora v. Superior Court of Imerial County/People

The Petition is denied.

D038877 In re Adams on Habeas Corpus

The petition is denied.

**D038597 Scripps Home Healthcare et al. v. Workers' Compensation Appeals Board/
Marcia Marshall**

The petition is denied. Applicant's request for supplemental attorney's fees is denied.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Gilbert Nares and Alex McDonald

Clerk: D. E. Moore

D036046 Rutman v. Bennett

Cause called on merits. Russell Bennett, Esq. argued for appellant/cross-respondent. Keith Rutman, Esq. argued for respondent/cross-appellant, telephonically. Mr. Bennett replied. Cause submitted.

Court recessed at 1:55 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

D035889 People v. Wrobleski

Cause called on merits. Nancy J. King, Esq. argued for appellant. Elizabeth Hartwig, Deputy Attorney General argued for respondent. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 13, 2001 (Cont'd)

D036627 People v. Denning

Cause called on merits. George Schraer, Esq. argued for appellant. Karl Terp, Deputy Attorney General argued for respondent. Mr. Schraer replied. Cause submitted.

D036132 Furstenfeld v. Anderson et al.

Cause called on merits. Steven M. Green, Esq. argued for appellant. Peter D. Lepiscopo, Esq. argued for respondent. Mr. Green replied. Cause submitted.

Court recessed at 3 p.m. until Friday, December 14, 2001 at 9 a.m.

D037827 In re Mark L., a Juvenile

D038425 Paul L. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The pending appeal and the pending petitions for extraordinary writ relief are consolidated for disposition.

D037827 In re Mark L., a Juvenile

D038425 Paul L. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The order made at the six-month review hearing denying visitation between Mark and Paul is affirmed. Let a writ issue directing the superior court to vacate its order terminating reunification services for Paul and setting a section 366.26 permanency planning hearing, and enter a new order providing him with six additional months of reunification services. The stay issued November 19, 2001, in D038425 is vacated. This decision is final immediately as to this court. (Cal. Rules of Court, rule 24(d).) Mary's petition is denied. CERTIFIED FOR PARTIAL PUBLICATION McDonald, J.;
We Concur: Huffman, Acting P.J., McIntyre, J.

D038838 In re Sebastian S., a Juvenile

The appeal is dismissed.

D035212 ETE, Inc. v. Maxwell Information Systems, Inc., et al.

Judgment reversed. Benke, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D038227 People v. Waldon

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 14, 2001

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices
Gilbert Nares and Alex McDonald
Clerk: D. E. Moore

D034035 People v. Thomas et al.

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Gary Brozio, Deputy Attorney
General argued for respondent. Cause submitted.

Court recessed at 9:15 a.m. until 1:30 p.m.

D034838 People v. Adams et al.

The petition for rehearing is denied.

D036365 Randall et al. v. Supralife International

Judgment affirmed. Respondents to recover costs on appeal. Haller, J.; We Concur: Kremer, P.J.
McIntyre, J.

D035643 McCall v. Nicholas

The order of September 19, 2001, submitting the above case is vacated due to an illness in the family of a
staff member of the court. The matter is resubmitted. Kremer, PJ

D035044 People v. Arreola

The judgment is affirmed. Benke, J.; We Concur: Kremer, P.J., Haller, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate
Justices James McIntyre and Terry O'Rourke
Clerk: D. E. Moore

D038620 California Insurance Guarantee Association v. Petriesevac

Cause called on merits. Gary Lynn Simms, Esq. argued for appellant. C. Guerry Collins, Esq. argued for
respondent. Mr. Simms replied. Cause submitted.

Court recessed at 1:55 p.m. to change panel members. New panel members: The Honorable
Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Richard Huffman and
James McIntyre

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

December 14, 2001 (Continued)

D037543 Citizens for Jobs and Economy et al. v. County of Orange/El Toro Reuse Planning
Cause called on merits. James Conrad Harrison, Esq. argued for appellant, Metzger. Steve Mayer, Esq. argued for appellant, El Toro Reuse. Fredric D. Woocher, Esq. argued for respondent, Citizens for Jobs and Economy. Marianne VanRiper, Esq. argued for respondent, County of Orange. James Clement Harman, Esq. argued for respondent, County of Orange. Mr. Harrison replied. Mr. Mayer replied. Barbara E. Lichman, Esq. was present in oral argument for respondent, Airport Working Group, but did not argue. Cause submitted.

Court adjourned at 3 p.m.

D038968 In re Palmore on Habeas Corpus
The petition is denied.

D038629 United Services Automobile Association v. Alaska Insurance Company et al.
The judgment is reversed and remanded with directions to enter judgment in favor of New Hampshire on USAA's complaint and in favor of Dr. Thomas on New Hampshire's cross-complaint. New Hampshire is awarded costs on appeal. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: Kremer, P.J., Huffman, J.

D038998 In re Gonzalez on Habeas Corpus
The petition is denied.

D039002 In re Campos on Habeas Corpus
The petition is denied.

D038950 Angelino et al. v. Superior Court of San Diego County/DaimlerChrysler Corporation
The petition is denied.